

REMARKS

The Office Action mailed September 6, 2006 has been received and the Examiner's comments carefully reviewed. Claims 1, 2, 8, 9, and 18 have been amended. No new subject matter has been added. Claims 1-6, 8-13, 18, 19, 21, 24 and 25 are currently pending. Applicants respectfully submit that the pending claims are in condition for allowance.

Rejections Under 35 U.S.C. §112

Claims 1-6, 8-13, 18, 19, 21, 24 and 25 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. In particular, the Examiner raised concerns regarding the recitation of a flange (singular) versus flanges (plural) in claims 1, 2, 8, 9, and 18.

Each of independent claims 1 and 18 has been amended to correct typographical errors. Claims 2, 8, and 9 have also been amended to address the Examiner's concerns. Applicants respectfully submit that claims 1-6, 8-13, 18, 19, 21, 24 and 25 are now in condition for allowance.

Rejections Under 35 U.S.C. §103

I. Claims 18, 19, 21 and 25 are rejected under 35 U.S.C. §103(a) as being unpatentable over May et al. (U.S. Patent 5,660,479) in view of Kettner (U.S. Patent 5,749,658). Applicants respectfully traverse this rejection.

Claim 18 recites a reclosable zipper having first and second profile members. Each profile member has at least one flange. First and second sealant layers are formed on outer surfaces of at least one flange of the first and second profile members. The sealant layers have a generally teardrop shape.

May does not teach or suggest a sealant layer having a generally teardrop shape. The Examiner relies upon Kettner to make up for the deficiencies of May. In particular, the Examiner states that FIG. 5a of Kettner shows a bead that is generally teardrop shaped.

Referring to FIG. 5a of Kettner, Kettner discloses a base strip 20 of a zipper 21. Thin bands 45 of a heat setting compound 28 are distributed on the inner surface 26 of the base strip 20. Each of the thin bands 45 has a hemispherical shape, not a teardrop shape.

It is noted that a term of a claim must be given its plain meaning absent any alternative definition provided in the specification. "Plain meaning" refers to the ordinary and customary meaning given to the term by those of ordinary skill in the art. MPEP 2111.01. The plain meaning of the adjective "teardrop" is used in the context of describing something that is shaped like a dropping tear. (See Webster Dictionary, 9th Ed.) It is respectfully submitted that it is impermissible to broaden the disclosure of hemispherical shaped bands, as the Examiner proposes. It is further submitted that FIG. 5a of Kettner simply does not show bands having a teardrop shape.

The Examiner further states that Kettner establishes that it is well within the level of skill in the art to vary the shape of the sealant layer. While Kettner discloses that the heat setting compound 28 can be distributed in thin bands 45, one uniform band, or two bands, there is simply no teaching or suggestion of providing the heat setting compound in the shape of a teardrop. Moreover, knowledge held by those skilled in the art applies to common facts of "notorious character" or "capable of such instant and unquestionable demonstration as to defy dispute." M.P.E.P. §2144.03. The teardrop shape of the sealant layers is not of notorious character and unquestionable demonstration. Applicants respectfully request proof of Examiner's position to the contrary.

"To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." M.P.E.P. §2143.03. At least because neither May nor Kettner teaches or suggests providing sealant layers having a generally teardrop shape, Applicants respectfully submit that independent claim 18, and dependent claims 19, 21, and 25 are patentable.

II. Claims 1-4, 6, 8-13 and 24 are rejected under 35 U.S.C. §103(a) as being unpatentable over May et al. (U.S. Patent 5,660,479) in view of Kettner (U.S. Patent 5,749,658) and further in view of Malin et al. (U.S. Patent 5,638,586). Applicants respectfully traverse this rejection.

Claim 1 recites a reclosable zipper having first and second profile members. Each profile member has at least one flange. First and second sealant layers are formed on outer surfaces of at least one flange of the first and second profile members. The sealant layers have a generally teardrop shape.

For similar reasons as discussed above with regards to claim 18, it is respectfully submitted that neither May nor Kettner teaches or suggests providing sealant layers having a teardrop shape. Malin does not make up for the deficiencies of May and Kettner.

Applicants respectfully submit that independent claim 1, and dependent claims 2-4, 6, 8-13, and 24 are patentable.

III. Claim 5 is rejected under 35 U.S.C. §103(a) as being unpatentable over May et al. (U.S. Patent 5,660,479) in view of Kettner (U.S. Patent 5,749,658) and further in view of Malin et al. (U.S. Patent 5,638,586). Applicants respectfully traverse this rejection.

Claim 5 depends upon claim 1. In view of the remarks regarding independent claim 1, further discussion regarding the independent patentability of dependent claim 5 is believed to be unnecessary. Applicants submit that dependent claim 5 is in condition for allowance.

SUMMARY

It is respectfully submitted that each of the presently pending claims (claims 1-6, 8-13, 18, 19, 21, 24 and 25) is in condition for allowance and notification to that effect is requested. The Examiner is invited to contact Applicants' representative at the below-listed telephone number if it is believed that prosecution of this application may be assisted thereby.

Although certain arguments regarding patentability are set forth herein, there may be other arguments and reasons why the claimed invention is patentably distinct. Applicants reserve the right to raise these arguments in the future.



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Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

A handwritten signature in dark ink, appearing to read "Karen A. Fitzsimmons". The signature is written over a horizontal line.

Karen A. Fitzsimmons

Reg. No. 50,470

KAF:cjc